

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

DAYAKAR R. MALLU,

Defendant.

21 Civ. 1251 (WSH)

MOTION FOR ENTRY OF FINAL JUDGMENT

Plaintiff Securities and Exchange Commission (the “Commission”), by and through its undersigned counsel, hereby moves this Court pursuant to Federal Rule of Civil Procedure 58(d) to enter a Final Judgment against Defendant Dayakar R. Mallu. Although the Commission staff has consulted with counsel of record for Defendant Mallu on a number of occasions over the last few months with respect to this motion, defense counsel has not advised the Commission staff as to Defendant Mallu’s position on the requested relief.

RELEVANT PROCEDURAL BACKGROUND

On September 22, 2021, the Court entered a Judgment as to Defendant Mallu. ECF 5. The Judgment—which was entered with Defendant’s Consent (the “Consent”)—resolved this action with respect to liability and imposed certain relief including injunctions preventing further violations of Section 10(b) of the Securities Exchange Act of 1934 [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5] and a bar prohibiting Defendant from serving as a director or officer of certain issuers of securities. ECF 2, 5. As set forth in the Judgment, the issue of whether the Commission would seek a civil penalty against Defendant Mallu was reserved for future consideration. ECF 5 ¶ III.

In addition to the Commission's civil action, Defendant Mallu was also a defendant in a parallel criminal action arising out of some of the same conduct at issue in this case. *United States v. Mallu*, No. 21-cr-326-WSH (W.D. Pa.) (the "Criminal Case"). On July 19, 2021, Defendant pleaded guilty in the Criminal Case. Criminal Case, ECF 21-1. On October 1, 2024, Defendant was sentenced to twenty-four months in prison, three years of supervised release, and to pay \$7,039,636.25 in restitution. Criminal Case, ECF 123 at 2, 3, 6. In addition, Defendant Mallu forfeited \$4,271,562 in currency from a brokerage account in his name, which was also incorporated into his criminal sentence and judgment. Criminal Case, ECF 123 at 8.

ARGUMENT

Under Federal Rule of Civil Procedure 58, every district court judgment, other than those specifically exempted by Rule 58(a)(1) to (5), "must be set out in a separate document." Fed. R. Civ. P. 58(a). Moreover, "[a] party may request that judgment be set out in a separate document as required by Rule 58(a)." Fed. R. Civ. P. 58(d).

In light of his conviction and the sanctions imposed against him in the Criminal Case, the Commission has determined not to seek a civil penalty against Defendant Mallu in this action. As a result, the Commission is requesting that the Court enter a Final Judgment that, among other things, maintains the terms of the September 22, 2021, Judgment except that: (1) Paragraph III of the Judgment, relating to a civil penalty, has been deleted given that the Commission has elected not to seek a civil penalty; (2) Paragraph IV of the Judgment, relating to exceptions to discharge under the Bankruptcy Code, has been deleted given that Defendant Mallu would owe no financial debt under the proposed Final Judgment; and (3) the term "Judgment" has been replaced by "Final Judgment" given that this will serve as the final judgment in this case. A redline showing these proposed changes is included as Exhibit A, and a

proposed Final Judgment that incorporates those changes is being submitted along with this motion.

CONCLUSION

For the foregoing reasons, the Commission respectfully requests that the Court grant the Commission's Motion for Entry of Final Judgment and enter the proposed Final Judgment against Dayakar R. Mallu.

Respectfully submitted.

Dated: April 10, 2025

Handwritten signature of Christopher R. Kelly in cursive script.

Christopher R. Kelly (NY 4247722)
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